

Message Text

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17
ORIGIN L-03

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DRAFTED BY L/EBLJCROOK
APPROVED BY EUR/CE:DANDERSON
EUR/CE:SMKLINGAMAN

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FM SECSTATE WASHDC
TO AMEMBASSY VIENNA

LIMITED OFFICIAL USE STATE 217002

E.O. 11652: NA

TAGS: PFOR, EFIN, EINV, EAID, AU

SUBJECT: AUSTRIAN PROPOSAL TO AUTHORIZE ERP FUND DEBENTURES

REF: (A) VIENNA 20001; (B) STATE 102751; (C) VIENNA A-281

1. IN LIGHT OF AUSTRIAN NOTE VERBALE TRANSMITTED VIENNA A-281, DEPARTMENT DOES NOT FORESEE ANY INCONSISTENCY BETWEEN ISSUANCE OF DEBENTURES BY ERP FUND AND PROVISIONS OF 1961 ERP COUNTERPART FUNDS AGREEMENT.

2. STATE 102751 REFLECTED OUR CONCERN THAT FUNDS SUBJECT TO ERP AGREEMENT MIGHT SOMEHOW BE MADE SUBJECT TO CLAIMS OF DEBENTURE HOLDERS, OR THAT ERP AGREEMENT ITSELF MIGHT BE INVOKED TO PROVIDE DOMESTIC LEGAL AUTHORITY FOR ERP DEBENTURES. GOA NOTE INDICATES THAT NEITHER WILL OCCUR. ACCORDINGLY, IF GOA WISHES TO ASSIGN ADDITIONAL FUNCTIONS OTHERWISE AUTHORIZED BY DOMESTIC LAW TO ERP FUND, AN ENTITY WITH LEGAL PERSONALITY UNDER AUSTRIAN LAW, AND ERP FUNDS CANNOT BE AFFECTED IN ANY WAY, WE SEE NO BASIS FOR US OBJECTION. QUESTION CITED PARA 4 OF VIENNA 2001 --

WHETHER PROPOSAL IS CONSISTENT WITH ERP FUND LEGISLATION- IS ONE OF AUSTRIAN LAW, AND U.S. CANNOT PROPERLY QUESTION
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GOA DECISION THAT IT HAS SUCH LEGAL AUTHORITY. ROBINSON

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